

Remarks

Initially, it is noted that claim 80 has been amended so as to place it in proper method claim format. As a result, claim 80 recites a patentable invention and should be examined.

As is required under 37 CFR 1.143, even though the restriction is respectfully traversed, the Applicants provisionally elect Group I, claims 1-47 and 81-91.

The restriction states that there is a lack of unity of invention because the groups do not share a special technical feature that defines a contribution over the prior art. The restriction indicates that Feldstein (US 6,192,168) discloses the features of claim 1, which is generic to all groups. However, the restriction is traversed for the following reasons.

Claim 1 recites a device including, in part, a multitude of recesses at least open towards a sensor platform, which form a corresponding multitude of sample compartments in a 2-dimensional arrangement, wherein in each of the sample compartments different biological or biochemical recognition elements are immobilized in five or more discrete measurement areas in a two-dimensional array on the optical waveguide in the sample compartments. Feldstein fails to disclose or suggest a multitude of recesses forming a multitude of sample compartments in a 2-dimensional arrangement, wherein in each of the sample compartments different biological or biochemical recognition elements are immobilized in a two-dimensional array, as recited in claim 1.

Feldstein discloses a fluidics cell 10 attached to a waveguide 12. A number of stripes 40-50 of biomolecular recognition species for the same (or different) analyte extend along the width of the surface of the waveguide 12. Further, flow channels 30 are formed by exposed regions 24 of the waveguide 12 and the fluidics cell 10. (See column 9, line 47 - column 10, line 15 and Figure 5).

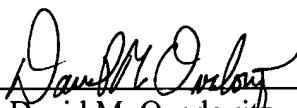
Based on the above discussion, it is apparent that the recognition elements 40-50 of Feldstein are located on the surface of the waveguide 12. Therefore, Feldstein necessarily fails to disclose or suggest a multitude of recesses forming a two dimensional array of sample compartments for different biological or biochemical recognition elements. As a result, claim 1 does disclose a special technical feature that defines a contribution over Feldstein.

In light of the above comments, the Applicants respectfully request that the Examiner withdraw the restriction and examine all of claims 1-92 on the merits in the next Office Action.

Respectfully submitted,

Andreas ABEL et al.

By:



David M. Ovedovitz

Registration No. 46,336

Attorney for Applicants

DMO/jmj
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
April 29, 2005